## **United States Department of Labor Employees' Compensation Appeals Board**

V.N. Appellant	
K.N., Appellant	)
and	) Docket No. 16-1412 ) Issued: December 20, 2016
U.S. POSTAL SERVICE, POST OFFICE, Bellmawr, NJ, Employer	)   155ucu. December 20, 2010 
Appearances: Appellant, pro se Office of Solicitor, for the Director	Case Submitted on the Record

## **ORDER REMANDING CASE**

## Before:

CHRISTOPHER J. GODFREY, Chief Judge PATRICIA H. FITZGERALD, Deputy Chief Judge COLLEEN DUFFY KIKO, Judge

On June 27, 2016 appellant filed an appeal from a September 25, 2015 decision of the Office of Workers' Compensation Programs (OWCP). The Board assigned Docket No. 16-1412.

By letter dated November 7, 2012, appellant requested a change of address for OWCP to send all mail to her new address. OWCP updated the change of address and sent all future correspondence to the last known address.

Although properly addressed, based on the information provided by appellant, the U.S. Post Office returned OWCP's September 25, 2015 decision as undeliverable. It noted on the envelope: return to sender, not deliverable as addressed, unable to forward. OWCP received the nondelivered decision on October 16, 2015. Appellant contends that she did not obtain a copy of the decision until June 20, 2016.

Despite receiving the September 25, 2015 decision as undeliverable, OWCP made no further attempt to reissue the decision. On appeal before the Board, appellant has noted that the

<sup>&</sup>lt;sup>1</sup> C.C., Docket No. 14-745 (issued July 29, 2014).

decision was never resent or reissued in a timely manner.<sup>2</sup> As the September 25, 2015 decision was never received, appellant could not have timely requested an appeal before the Board.<sup>3</sup> For these reasons, the case will be remanded to OWCP for proper issuance of a *de novo* decision.<sup>4</sup> Accordingly,

**IT IS HEREBY ORDERED THAT** the September 25, 2015 decision of the Office of Workers' Compensation Programs is set aside and the case record is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: December 20, 2016 Washington, DC

Christopher J. Godfrey, Chief Judge Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board

<sup>&</sup>lt;sup>2</sup> E.C., Docket No. 11-1774 (issued February 27, 2012). Under the mailbox rule, it is presumed, in the absence of evidence to the contrary, that a notice mailed to an individual in the ordinary course of business was received by that individual. This presumption arises when it appears from the record that the notice was properly addressed and duly mailed. However, as a rebuttable presumption, receipt will not be assumed when there is evidence of nondelivery.

<sup>&</sup>lt;sup>3</sup> For decisions of OWCP issued on or after November 19, 2008, the Board's review authority is limited to appeals which are filed within 180 days from the date of issuance of OWCP's decision. 20 C.F.R. § 501.3(e).

<sup>&</sup>lt;sup>4</sup> M.C., Docket No. 12-1778 (issued April 12, 2013); J.M., Docket No. 12-543 (issued March 12, 2013).